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WM. R. STANGER

U.S. DISTRICT COURT

Supreme Court of the United States

October Term, 1922—No. 9

275

NEW YORK, PHILADELPHIA & NORFOLK TELEGRAPH COMPANY,
Plaintiff-in-Error,

—VERSUS—

JOHN I. DOLAN, Collector of Taxes for the Southern District of the
City of Wilmington.

IN ERROR TO THE SUPREME COURT OF THE STATE OF DELAWARE

APPENDIX TO BRIEF FOR PLAINTIFF-IN-ERROR

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OVERTON HARRIS,
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Of Counsel.

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VOL. 27

LAWS OF DELAWARE

OF THE CITY OF WILMINGTON

CHAPTER 205

An Act to Alter and Re-establish the Statutes
Relating to the City of Wilmington.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of all the members elected to each House thereof concurring herein):

Section 1. That Section 80, Chapter 207, Volume 17, Laws of Delaware, be and the same is hereby amended by inserting in said Section 80, between the word "companies" in the tenth line of said Section, and the word "Every" in the eighteenth line of said Section, the following, viz.:

"All street railway lines, all gas mains, all electric light poles and wires, all telephone or telegraph poles and wires, all poles and wires used in transmitting heat, light or power, all pipes, conduits, wires or other underground construction, used as electric light, telephone or telegraph lines, or in transmitting electric light, heat or power, and all pipes or conduits used in carrying water, located on the public streets in the City of Wilmington or on private property not otherwise taxed, excepting those now ex-

empted from taxation by law, shall be assessed in the following manner:

(a) All street railways shall be assessed per mile for each mile or fraction thereof of single track within the City of Wilmington, but such assessment shall not be less than eighteen thousand dollars and not more than twenty thousand dollars per mile.

(b) All gas mains in actual use, located in the streets of the City of Wilmington shall be assessed per mile or fraction thereof, for each mile of the streets used, but such assessment shall not be less than four thousand dollars and not more than four thousand five hundred dollars per mile.

(c) All electric light, telephone or telegraph poles and wires overhead, used as electric light, telephone or telegraph lines, located in the streets of the City of Wilmington shall be assessed per mile or fraction thereof, for each mile of the streets used, but such assessment shall not be less than six thousand six hundred dollars and not more than seven thousand three hundred dollars per mile.

(d) All poles, wires, or other overhead construction, used in transmitting heat, light or power, located in the streets of the City of Wilmington, shall be assessed per mile or fraction thereof for each mile of the streets used, but such assessment shall not be less than four thousand dollars and not more than four thousand four hundred dollars per mile.

(e) All telephone, telegraph or electric light underground conduits, or wires, pipes, conduits or other underground construction used in transmitting heat, light or power, located in the streets of the City of Wilmington, shall be assessed per mile or fraction thereof, for each mile of the streets of the city used, but such assessment shall not be less than four thousand dollars and not more than four thousand four hundred dollars per mile.

(f) All underground pipes or conduits used in carrying water, located in the streets of the City of Wilmington, shall be assessed per mile or fraction thereof, for each mile of the streets of the city used, but such assessment shall not be less than four thousand dollars and not more than four thousand four hundred dollars per mile.

Any light company which uses the same system or materials for furnishing heat, light and power shall not be doubly assessed on the same construction.

The assessment shall not be made against both the owner and the operators of the street railways, gas mains, electric light, heat, light and power, telephone or telegraph lines and water pipes mentioned in this section.

Every person, firm, association or corporation owning or operating any street railway, gas mains, electric light, heat and power, telephone or telegraph lines, and water pipes in the City of Wilmington, mentioned in this section, shall on or before the first day of April of each and

every year, file with the Clerk of the Council of the said City of Wilmington a sworn statement which shall set out the following:

(1) In the case of every such person, firm, association or corporation owning or operating any street railway, setting forth the total mileage of single tracks of every such company within the limits of the City of Wilmington.

(2) In the case of every such person, firm, association or corporation owning or operating any telegraph, telephone, gas, water, electric light, or heat and power business, system, or plant, shall state the total number of miles of the streets of the City of Wilmington used by every such person, firm, association or corporation, overhead and underground, in its said business.

(3) In case of an individual, firm or association transacting any such business, said statement shall be verified by the oath or affirmation of any one of the persons, owning or operating the same; and in the case of every corporation owning or operating any such business, said statement shall be verified by the oath or affirmation of the Treasurer of every such corporation. Said taxes shall be due and payable to the Mayor and Council of Wilmington annually at the same time that the city and school taxes due said city are payable, and shall be subject to the same rebates, deductions, discounts, allowances and penalties as are now or hereafter may be provided by law in reference to such city and school taxes.

The assessment of real estate shall be made according to a certain rate in and upon every hundred dollars of the estimated value of the property assessed, if sold for cash, and so *pro rata*. All assessments upon real estate shall be so made as to show separately the valuation of the improvements upon and the total valuation of the property assessed, and such property shall be described with such particularity as will enable it to be clearly identified, and the name of the owner, or last owner or reputed owner shall be given, if known. Such name shall be regarded as an aid to identify such property, but a mistake in the name of the owner, last known owner or reputed owner, or the absence of name, shall not effect the validity of the assessment or any tax based thereon.

The Board of Assessment, Revision and Appeals shall make or cause to be made, so soon as practicable, maps of all the real estate in the city, to be known as tax maps, and such other records as may be necessary, which shall be used as the basis of assessment of real estate. Said maps and records shall, so far as possible, show all things necessary to enable adequate assessments to be made.

The Board of Assessment, Revision and Appeals may engage the services of experts and such other employees as it may deem necessary to carry into effect the provisions of this section, and shall fix their duties, compensation and terms of service. All necessary expenses of the said Board of Assessment, Revision and Appeals shall be paid by the Council upon bills presented

to it, marked with the approval of the said board and properly audited by the City Auditor in the same manner as other bills against said City of Wilmington are now passed.

To better enable said Board of Assessment, Revision and Appeals, and the Assessors and Collectors to make said assessments they shall have the right to examine all records in the county office, kept at the Court House in the City of Wilmington in and for New Castle County, free of all costs and charges.

Section 2. That the Board of Assessment, Revision and Appeals for the City of Wilmington, shall be and they are hereby authorized to make the first assessment on street railway lines, gas mains, electric light poles and wires, poles and wires used in transmitting heat, light or power, pipes, conduits and other underground construction, used as electric light, telephone or telegraph lines or in transmitting electric light, heat or power, and all pipes or conduits used in carrying water, as provided for in this Act at any time prior to the thirty-first day of May, A. D. 1913, for the next fiscal year, previous notice of such intended assessment, designating the time at which the same will be made, being given by the board in writing to the owner, owners, operator or operators of said property.

Section 3. That Section 16 of Chapter 177, Volume 24, Laws of Delaware, approved March 25, A. D. 1907, in so far as it is inconsistent herewith, as well as other Acts or parts of Acts inconsistent herewith, are hereby repealed.

Approved April 7, A. D. 1913.